

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LORENZO CARL PAYNES,

Plaintiff,

No. CIV S-04-1868 MCE KJM P

vs.

D.L. RUNNELS, et al.,

Defendant.

ORDER

_____/

Plaintiff is a state prison inmate proceeding pro se with a civil rights action under 42 U.S.C. § 1983. The court originally ordered service of the complaint on defendants Runnels, Tuffin, Felker and Woodford, but later determined that the complaints plaintiff had returned for service were not complete; as a result, the court vacated that order. Plaintiff then provided completed copies of the complaint and the court directed service again, but, assuming that the Marshal had retained a copy of the summons, did not direct plaintiff to return a new summons.

In order to ensure that service is properly effectuated, the court will send plaintiff a copy of a summons and four USM forms, along with five copies of the complaint dated May 23, 2005. Once these documents are returned, the court will direct the Marshal to serve the defendants.

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1 Plaintiff has filed a motion for default judgment. Because the defendants have
2 not been served properly, default is not appropriate.

3 1. Service is appropriate for the following defendants: Runnels, Felker, Tuffin
4 and Woodford.

5 2. The Clerk of the Court shall send plaintiff four USM-285 forms, one summons,
6 an instruction sheet and five copies of the complaint filed May 23, 2005.

7 3. Within thirty days from the date of this order, plaintiff shall complete the
8 attached Notice of Submission of Documents and submit the following documents
9 to the court:

10 a. The completed Notice of Submission of Documents;

11 b. One completed summons;

12 c. One completed USM-285 form for each defendant listed in number 1
13 above; and

14 d. Five copies of the endorsed complaint filed May 23, 2005.

15 4. Plaintiff need not attempt service on defendants and need not request waiver
16 of service. Upon receipt of the above-described documents, the court will direct the United
17 States Marshal to serve the above-named defendants pursuant to Federal Rule of Civil Procedure
18 4 without payment of costs.

19 5. Plaintiff's motion for the entry of default (docket no. 28) is denied.

20 6. The order of June 14, 2006 directing service is vacated.

21 DATED: October 12, 2007.

22 
23 U.S. MAGISTRATE JUDGE

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NOTICE OF SUBMISSION
OF DOCUMENTS

_____/

Plaintiff hereby submits the following documents in compliance with the court's
order filed _____:

_____ completed summons form

_____ completed USM-285 forms

_____ copies of the _____
Amended Complaint

DATED:

Plaintiff